

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JACQUELINE A. WILLIAMS AND
ROSALINE WEBSTER

Plaintiff,

v.

HIRSCHBACH MOTOR LINES, INC.

Defendant.

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CIVIL ACTION NO. 4:21-cv-2218

DEFENDANT HIRSCHBACH MOTOR LINES, INC.'S NOTICE OF REMOVAL

BACKGROUND

1. This is a personal injury action arising from a motor vehicle accident that occurred in Harris County, Texas on November 8, 2020.¹ Plaintiffs Jacqueline A. Williams and Rosaline Webster claim they suffered personal injuries as a result of the alleged negligence of Defendant.

STATE COURT ACTION

2. Plaintiffs Jacqueline A. Williams and Rosaline Webster filed suit against Defendant Hirschbach Motor Lines, Inc. on June 10, 2021. The case was filed in the 190th Judicial District Court of Harris County, Texas under cause number 2020-34895, case style *Jacqueline A. Williams and Rosaline Webster v Hirschbach Motor Lines, Inc.*²

JURISDICTION

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332(a). Plaintiffs are citizens of the State of Texas. Defendant Hirschbach Motor Lines, Inc. is

¹ See Ex. C (Plaintiffs' Original Petition).

² *Id.*

incorporated in the State of Iowa and maintains its principal place of business in the State of Iowa.³ This is a civil action in which defendant is not domiciled in the same state as the plaintiffs.

4. Furthermore, under 28 U.S.C. § 1441(b)(2), defendant is not a citizen or resident of Texas where this action was brought.

5. In Plaintiffs' Original Petition, Plaintiffs seeks monetary relief of less than \$250,000.00.⁴ It is facially apparent that the amount in controversy in this case exceeds \$75,000. Plaintiffs seek past and *future* medical expenses, physical pain, and pain and suffering.⁵ Plaintiffs did not attach a binding stipulation or affidavit to their Original Petition representing that they would not seek recovery exceeding \$75,000. Moreover, in their Original Petition, Plaintiffs did not even allege that the amount in controversy does not exceed \$75,000. Therefore, Defendant shows by a preponderance of the evidence that the amount in controversy exceeds \$75,000.

6. Based on the foregoing, Defendant Hirschbach Motor Lines, Inc., has established by a preponderance of the evidence that removal is proper because there is complete diversity between the parties and the amount in controversy exceeds the federal jurisdictional threshold.

7. For these reasons, the amount-in-controversy and diversity requirements of 28 U.S.C. § 1332(a) are met as to all parties, and the Court has original jurisdiction over this action.

TIMELINESS

8. After Plaintiffs filed their original petition on June 10, 2021, the Harris County district court issued a citation to Hirschbach Motor Lines, Inc. on June 10, 2021. Hirschbach Motor Lines, Inc. was served on or around June 21, 2021.⁶ Under 28 U.S.C. § 1446(b)(1), this Notice of

³ *Id.* at Section III.

⁴ *Id.* at Section II.

⁵ *Id.* at Section VII.

⁶ *See* Ex. D (Plaintiffs Service of Process on Defendant Hirschbach Motor Lines, Inc.).

Removal is therefore timely, and under 28 U.S.C. § 1446(b)(2)(A) no consent of any other party is required.

CONDITIONS PRECEDENT

9. Defendant has tendered the required filing fee to the Clerk of the United States District Court for the Southern District of Texas, Houston Division, along with this Notice of Removal. Defendant will promptly file a copy of this Notice of Removal with the Harris County Clerk and will provide notice to Plaintiffs through their counsel of record.

10. Copies of all executed process, pleadings, and orders filed in state court, as well as the docket sheet, an index of matters being filed, and list of counsel of record accompany this notice.⁷

CONDITIONAL REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

11. If Plaintiffs contest this removal, Hirschbach Motor Lines, Inc. requests (1) a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter; (2) the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal, as well as provide additional briefing on these issues; and (3) leave to conduct limited discovery related to those matters.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ David Helmey

DAVID HELMEY

State Bar No. 24092504

Federal Bar No. 2790922

HAMED MORADI

⁷ See 28 U.S.C. § 1446; S.D. Tex. Civ. R. 81. See also, Ex. A (Index), Ex. B (Harris County Docket Sheet), Ex. C (Plaintiffs' Original Petition), Ex. D (Proof of Service Citation for Hirschbach Motor Lines, Inc.), and Ex. E (List of Counsel of Record).

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record through the Court's ECF system on July 8, 2021.

Donald G. DeSimone
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/s/ David Helmey
DAVID HELMEY